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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,319	12/12/2003	Masafumi Nakamura	500.33792CC3	9076

20457

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07/09/2008

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EXAMINER

HASAN, SYED Y

ART UNIT

PAPER NUMBER

2621

MAIL DATE

DELIVERY MODE

07/09/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

10/733,319

**Applicant(s)**

NAKAMURA ET AL.

**Examiner**

SYED Y. HASAN

**Art Unit**

2621

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 4/3/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date See Continuation Sheet
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :12/12/2003, 4/27/2006 and 8/30/2007.

**DETAILED ACTION**  
**Terminal Disclaimer**

1. The terminal disclaimer filed on 4/3/2008 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of patent no. 6,549,579 has been reviewed and is accepted.

The terminal disclaimer has been recorded.

***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper time wise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11F.3d 1046, 29 USPQ 2d 2010 (Fed. Cir. 1993); *In re LongL* 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1, 3, 5, 7, 9, 10, 11 and 12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,693,966 B2. Although the conflicting claims are not identical, they are

not patentably distinct from each other because;

Regarding **claims 1, 3, 5, 7, 9, 10, 11 and 12** of this application, claim 1 of U.S. Patent No. 6,693,966 B2 recites a rearranging circuit which rearranges and outputs the reproduced divided data on a time axis according to the reproduced reference time information such that a time interval between adjacent divided data as outputted from the rearranging circuit is equal to a time interval between respective output reference times of the adjacent divided. It is obvious that the method of claims 1, 3, 5, 7, 9, 10, 11 and 12 of this application can be practiced by the apparatus of claim 1 of U.S. Patent No. 6,693,966 B2.

4. Claims 1, 3, 5, 7, 9, 10, 11 and 12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,438,172 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because;

Regarding **claim 1, 3, 5, 7, 9, 10, 11 and 12** of this application, claim 1 of U.S. Patent No. 6,438,172 B2 recites rearranging said divided time sequential data of said second data unit read from said medium in accordance with said data structure that is peculiar to said medium to obtain a reassembled second data unit. It is obvious that the method of claim 1 of this application can be practiced by the apparatus of claims 1, 3, 5, 7, 9, 10, 11 and 12 of U.S. Patent No. 6,438,172 B2.

5. Claims 1, 3, 5, 7, 9, 10, 11 and 12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 4 of U.S. Patent No. 6,438,172 B2. Although the conflicting claims are not identical, they are

not patentably distinct from each other because;

Regarding **claim 1, 3, 5, 7, 9, 10, 11 and 12** of this application, claim 4 of U.S. Patent No. 6,438,172 B2 recites rearranging said divided time sequential data of said second data unit read out from said memory means to obtain a reassembled second data unit. It is obvious that the method of claims 1, 3, 5, 7, 9, 10, 11 and 12 of this application can be practiced by the apparatus of claim 1 of U.S. Patent No. 6,438,172 B2.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed Y. Hasan whose telephone number is 571-270-1082. The examiner can normally be reached on 9/8/5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Tran can be reached on 571-272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call

Art Unit: 2621

800-786-9199 (IN USA OR CANADA) or 571-272-1000.

S.Y.H.

07/07/2008

/Thai Tran/

Supervisory Patent Examiner, Art Unit 2621